



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,239	03/26/2004	Lorraine E. Reeve	PMX-003.02	9010

25181 7590 04/06/2006

FOLEY HOAG, LLP  
PATENT GROUP, WORLD TRADE CENTER WEST  
155 SEAPORT BLVD  
BOSTON, MA 02110

EXAMINER

THERKORN, ERNEST G

ART UNIT	PAPER NUMBER
----------	--------------

1723

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

# Office Action Summary

Application No.

10/811,239

Applicant(s)

REEVE ET AL.

Examiner

Ernest G. Therkorn

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 and 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892).
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

Art Unit: 1723

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-17 are rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973). The claims are considered to read on each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973). However, if a difference exists between the claims and each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973), it would reside in optimizing the elements of each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973). It would have been obvious to optimize the elements of each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973) to enhance separation.

Claims 12-17 are rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over each of Berg (U.S. Patent No. 6,448,371), Landh (U.S. Patent No. 5,531,925), and Schwarz (U.S. Patent No.

Art Unit: 1723

2005/0008610). The claims are considered to read on each of Berg (U.S. Patent No. 6,448,371)'s column 1, lines 14-17 purified poloxamer 407, Landh (U.S. Patent No. 5,531,925)'s column 11, lines 42-43 purified poloxamer 407, and Schwarz (U.S. Patent No. 2005/0008610)'s paragraph 176 purified poloxamer 407. However, if a difference exists between the claims and each of Berg (U.S. Patent No. 6,448,371), Landh (U.S. Patent No. 5,531,925), and Schwarz (U.S. Patent No. 2005/0008610), it would reside in optimizing the elements of each of Berg (U.S. Patent No. 6,448,371), Landh (U.S. Patent No. 5,531,925), and Schwarz (U.S. Patent No. 2005/0008610). It would have been obvious to optimize the elements of each of Berg (U.S. Patent No. 6,448,371), Landh (U.S. Patent No. 5,531,925), and Schwarz (U.S. Patent No. 2005/0008610) to enhance separation.

The remarks urge that the examination of an additional invention would not be an undue burden on the examiner. However, the additional search and different issues of patentability would be an enormous burden on the examiner. As such, the restriction requirement has been reconsidered, deemed proper, and made final for the reasons of record.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is 571-273-8300.

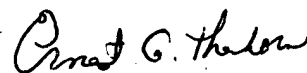
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Application/Control Number: 10/811,239

Page 4

Art Unit: 1723

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Ernest G. Therkorn**  
**Primary Examiner**  
**Art Unit 1723**

EGT

April 3, 2006